

# NURSING HOMES AND TITLE VI

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# Questions and Answers

## Nursing Homes and Title VI of the Civil Rights Act of 1964

NURSING HOMES that receive funds through federally aided programs such as Medicare or State welfare programs are covered by Title VI of the Civil Rights Act of 1964. Title VI prohibits discrimination on the basis of race, color, or national origin in any program receiving Federal financial assistance. To help nursing homes understand the requirements of the law, the Public Health Service has answered questions posed by many nursing home administrators. These questions and answers are given here. If anyone has other questions or problems about Title VI, he can call on the Regional Program Director of the Office of Equal Health Opportunity in the nearest regional office of the U. S. Department of Health, Education, and Welfare. These offices are located in Boston, New York, Charlottesville, Virginia, Atlanta, Chicago, Kansas City, Dallas, Denver and San Francisco.

**1. How can a nursing home qualify for participation in Medicare under Title VI?**

**ANSWER:** Each nursing home must provide an Assurance of Compliance (Form 441) and an Extended Care Facility Compliance Report (Form PHS-4888) concerning the policies and operation of the nursing home. These documents, which are part of the application for participation in Medicare (Title XVIII), will be forwarded to the Public Health Service. If the Assurance is acceptable, the Social Security Administration will be notified. If the forms raise any questions about discrimination or the home must take positive action before it is accepted, the Office of Equal Health Opportunity will notify the home promptly.

**2. Will a nursing home that does not participate in Medicare but does receive vendor payments through public welfare have to meet the same standards of non-discrimination?**

**ANSWER:** Yes, the same guides for non-discrimination apply to this home that apply to homes receiving Federal funds directly. The Public Health Service will be working with nursing homes that apply for participation in Medicare. The State welfare departments will be working with nursing homes that are receiving vendor payments for the care of welfare patients and will conduct routine on-site compliance reviews on a regular basis.

**3. If a nursing home has never, or not recently, had a Negro patient but has signed the assurance form for participation, can it be cleared for compliance with Title VI?**

**ANSWER:** The assurance of compliance could be accepted if the home adopts a non-discriminatory policy and has notified the public, its patients and its sources of referral that its services are available to all persons without regard to race, color, or national origin.

If the home does not publicize its policy, its assurance would not be accepted. There is a strong possibility that such a home would be identified for a follow-up visit to evaluate the results of its open policy. If, after a reasonable time has elapsed, the home still

home may do this through letters to civic and private organizations which have an active interest in equal opportunity and by a news release in the local newspaper. A copy of the written policy should be conspicuously displayed in the home so that patients and their visitors are aware of it. The Public Health Service has developed a model policy statement for the guidance of the nursing home administrator. Fundamentally, it is necessary that a clearly enunciated policy of non-discrimination in all aspects of nursing home activity is communicated to the community as a whole, individuals interested in treatment at the home, professional groups, and sources of patient referral.

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had no Negro patients, an on-site review would be made to find out whether minority groups are not cared for because of discriminatory practices by the home or its sources of referral.

**4. How does a nursing home publicize its policy of non-discrimination?**

ANSWER: This policy must be made known clearly to any prospective patients or sources of referral—especially those who may not have used the home in the past because of restrictive policies. The welfare department, hospitals, physicians, other social agencies and ministers, to name a few, are among those who usually refer patients. The minority groups who may not have used the home in the past should be notified. The

**5. If a nursing home does not plan to take part in Medicare or any federally financed program at the present time, can it qualify under Title VI at some later date?**

ANSWER: Yes, if the nursing home receives no Federal funds directly or through State operated programs, it can qualify under Title VI and apply for participation in such programs at any time in the future. Qualification under Title VI will require the same policies and actions in the future as is required now.

**6. If a third of the population in an area is Spanish-American or Negro, must a**

nursing home have the same proportion of patients?

ANSWER: No. Title VI is not being administered as a numbers game. The number of patients of any minority group that should be receiving services in the home is that number which would actually be there if there were no barriers to the admission on the basis of race, color, or national origin. If there is a great discrepancy between the make-up of the population in the service area and the proportion in the nursing home, it is necessary to determine if this is due to discriminatory practices.

8. If a nursing home has a long waiting list and has no applications from members of a minority group, how can it show that it is not in violation of the law?

ANSWER: Nursing homes can begin to solicit referrals from agencies or sources that will refer Negroes or other minority groups. When these patients are referred, they should be admitted to the home if there are beds available. If there are no beds available, these patients should be placed on the waiting lists and, once on, should not be passed over because of their race, color, or national origin. Whatever is good medical practice, of course, should still be followed, but a waiting list should not be used as a device to deny service to a person simply because of his race, color, or national origin.

7. If the sources of referral do not refer patients who are members of minority

**groups, what can the nursing home administrator do about it?**

ANSWER: First, the administrator should make his open policy known to all his sources of referral. Secondly, he should seek out sources of referral which, in fact, are providing or referring patients without regard to race, color, or national origin. Although the administrator cannot force any source to refer patients to him on a non-discriminatory basis, he can refuse or limit patients referred by such a discriminatory source and actively solicit the use of his home by sources that will refer without discrimination. Practically all hospitals and welfare departments are subject to Title VI because they already receive Federal payments.

If the nursing home begins to take action now which will lead to full use of the home by all groups in the community, it will be cleared now.

**9. Does Title VI require that every Negro in a nursing home be placed in a room with a white patient?**

ANSWER: It is not necessary that each Negro patient be placed in a room with a white patient. It is important, in room assignment, just as in the delivery of services throughout the nursing home, that these services be provided without regard to the race, color, or national origin of the patient. Nursing homes routinely take into consideration such factors as medical condition,

room rates, age and sex in the assignment of rooms. These normal procedures which do not involve racial questions are permissible as long as the rules apply to both white and Negro patients alike and do not result in a pattern of segregated rooms, wings or floors.

**10. If a physician believes that his patient should not be assigned to a room with someone of another race, can this be done?**

ANSWER: Yes, in some cases there may be a valid medical reason or special compelling circumstances which would govern the assignment of a patient. But the assignment of patients may not be used as a device to evade compliance with the Civil Rights Act.

patient will be so deep that it would be impossible from a practical or medical point of view to get him to accept a person of a different race, color, or national origin. In exceptional cases such as this, the occasional assignment or reassignment of a patient because of race will not be an act of non-compliance with Title VI; however, problems incident to room assignment may not be used to develop or maintain a pattern of segregation within the home or for the continued exclusion of persons based on their race, color, or national origin.

**12. What if the nursing home serves only members of one religion or organization?**

ANSWER: That nursing home would be treated like any other. If it provides serv-

**11. What is an administrator supposed to do if a patient refuses to share a room with a patient of another race?**

ANSWER: In long term facilities, the problem of incompatibility is one with which nursing home administrators have been struggling for many years. Nursing home administrators have provided harmonious solutions for the health care problems of patients despite problems of incompatibility. In most of the circumstances arising in the area of Title VI compliance, they will be able to obtain patient cooperation so that the institution can be used freely by all. We recognize that there will be instances where the prejudice of a particular

ices to all members of the religion or organization and the organization does not restrict its membership on the basis of race, color, or national origin, that nursing home would be in compliance. If the religion or organization does restrict its membership on the basis of race, color, or national origin, the nursing home could still comply with Title VI by making its services available to the community without discrimination.

**13. Will the field staff of the Office of Equal Health Opportunity actually visit nursing homes?**

ANSWER: Yes, members of the field staff will visit nursing homes throughout the

country. Some of these visits will be made because of questions that arise from an evaluation of the compliance report submitted by the nursing homes. Others will come about because of complaints from minority groups. Others will be made as part of the agency's routine compliance activities to evaluate the total compliance in a given locality.

**14. What kind of inspection does the Federal Government carry on in connection with Title VI?**

ANSWER: Representatives of the Federal Government will notify the nursing home administrator in advance of the field visit unless there is considerable evidence

will also visit sources of referral and minority group representatives in the community. The nursing home administrator will receive a notice of the findings of the visit.

**15. What happens if a nursing home does not comply with Title VI?**

ANSWER: It now appears as if many nursing homes have already taken some action to make sure that their services are available to all. For this, the entire community can be grateful. In the time left, the Public Health Service will do everything it can to help nursing homes come into compliance. If a nursing home does not comply with Title VI, it will not receive funds under the Medicare program and will not be able

that the nursing home deliberately concealed discrimination during a previous visit. With the administrator and his staff, the representatives will tour the facility to observe admission policies in practice, room assignments, use of service areas such as dining and recreation rooms, training programs and staff privilege practices. The survey teams

to receive funds under any other Federal Government program. State agencies like Welfare or Vocational Rehabilitation will discontinue using that nursing home.

If the nursing home participates in federally aided programs it must be willing to serve all patients in the community without regard to race, color, or national origin.

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**U.S. DEPARTMENT OF  
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